

REMARKS/ARGUMENTS

As a result of the above amendments, Claims 1, 3, 6-8, 10-16, 18, 20, 22, 24, 27, 28, 29, 31-37, 39, 41, 43, and 46 remain pending. Claims 1, 6-8, 10-12, 18, 20, 22, 27, 28, 31-33, 41, 43, and 46 have been amended and Claims 4-5, 9, 17, 19, 21, 25-26, 30, 38, 40, 42, and 45 have been canceled. No new matter has been added.

By this Reply, Claim 1 has been amended to specify that the priority message is a “priority Amber Alert message,” which will explained in greater detail below. Claim 1 has also been amended to include at least some of the limitations of Claims 4, 5, 9, and 19, namely to indicate that the “authority comprises a law enforcement authority,” to indicate that “the priority Amber Alert message comprises an abductee name, a vehicle identification, a time, and a location,” and to include the steps of “providing for assigning the priority message to a priority channel within the plurality of wireless devices and providing for displaying the priority message received on the priority channel of the plurality of wireless devices, on the display of the plurality of wireless devices immediately upon receipt by the plurality of wireless devices.”

Also by this Reply, Claim 22 has been amended to specify that the priority message is a “priority Amber Alert message,” which will explained in greater detail below. Claim 22 has also been amended to include at least some of the limitations of Claims 25, 26, 30, and 40, namely to indicate that the “authority comprises a law enforcement authority,” to indicate that “the priority Amber Alert message comprises an abductee name, a vehicle identification, a time, and a location,” and to include “means for assigning the priority Amber Alert message to a priority channel within the plurality of wireless devices and for displaying the priority Amber Alert message received on the priority channel of the plurality of wireless devices, on the display of the plurality of wireless devices immediately upon receipt by the plurality of wireless devices.”

Claim 43 has been amended to specify that the priority message is a “priority Amber Alert message,” which will explained in greater detail below. Claim 43 has also been amended to include at least some of the limitations of Claim 45 as well as some other limitations, namely to indicate that the “authority comprises a law enforcement authority,” to indicate that “the priority Amber Alert message comprises an abductee name, a vehicle identification, a time, and a location,” and to include “means for detecting whether to assign the priority Amber Alert

message to a priority channel within the wireless device and for displaying the priority Amber Alert message received on the priority channel of the wireless device, on the display of the wireless device immediately upon receipt by the wireless device.”

Other claims have been amended for clarification.

Remarks Concerning Rejections Under 35 U.S.C. § 103(a)

In the Office Action dated June 15, 2005 (“Office Action”), the Examiner rejected all of the pending claims under 35 U.S.C. 103(a) as being unpatentable based on Hymel (US Patent 6,353,382) in view of Alperovich et al. (US Patent 6,119,014) for Claims 1 and 22, and in view of one or more other references for some of the other claims, as will be discussed below.

As indicated above, by this Reply, Claims 1 and 22 (as well as Claim 43) have been amended to specify that the priority message is a “priority Amber Alert message.” In one embodiment, the present application is essentially directed to immediately displaying an Amber Alert message having a name, a vehicle identification, a time, and a location, on the display of a plurality of wireless devices before any other message is displayed on the displays of the plurality of wireless devices. This immediate display can be critical to the survival of children and other abductees. These claims specify a particular way to accomplish this immediate display. In particular, Claim 1 requires (1) receiving a priority Amber Alert message from an authority, wherein the authority comprises a law enforcement authority, and wherein the priority Amber Alert message comprises an abductee name, a vehicle identification, a time, and a location; (2) assigning a priority identifier to the priority Amber Alert message; (3) transmitting the priority Amber Alert message to the plurality of wireless devices, wherein the priority identifier will cause the priority Amber Alert message to receive priority status once received by the plurality of the wireless devices; and, (4) compelling the immediate displaying of the priority Amber Alert message on the displays of the plurality of wireless devices before any other message is displayed on the displays of the plurality of wireless devices, comprising the steps of providing for assigning the priority message to a priority channel within the plurality of wireless devices and providing for displaying the priority message received on the priority channel of the plurality of wireless devices, on the display of the plurality of wireless devices immediately upon receipt by the plurality of wireless devices. Claims 22 and 43 have similar limitations for a system and a wireless device.

Hymel in view of Alperovich et al. do not disclose or teach each and every limitation of current Claim 1 (or Claims 22 or 43). However, Applicant will now address the combination of references which made up the Examiner's rejections for previous Claims 1, 4, 5, 9 and 19, combined, which is generally now the subject matter of pending Claims 1, 22, and 43. Applicant believes that any such combination of references would be improper and would not support a prima facie case of obviousness, as will be explained below. As indicated, previous Claim 1 was rejected based on Hymel in view of Alperovich et al. Previous Claims 4 and 5 were rejected based on Hymel in view of Alperovich and in view of Ong et al. (US Patent 6,515,577). Previous Claim 9 was rejected based on Hymel in view of Alperovich and in view of Menard et al. (US Patent 6,671,351). Previous Claim 19 was rejected based on Hymel in view of Alperovich and in view of Seeger (US Patent Application Publication 2003/0022684). Thus, in order for the Examiner to attempt to create a prima facie case of obviousness, to reject presently amended Claim 1, (and Claims 22 and 43), the Examiner would, among other requisite showings, have to combine 1) Hymel, 2) Alperovich et al., 3) Ong et al., 4) Menard et al., and 5) Seeger. As will be explained below, 1) any such combination would be improper hindsight analysis, and 2) even if these five (5) references were combined, this combination would still not teach each and every element of Claims 1, 22, and 43.

According to Hymel et al., it is directed to a method for controlling outbound messages in a two way communications system in which subscribers pay for received messages. Hymel et al. does not define the types of messages which should be indicated as "priority" messages, although it refers to priority messages in the context of other generic types of messages, such as numeric messages, messages from identified sources, and messages which include identified words. (Col. 4, lines 59-62). It appears that Hymel et al. is only interested in reducing unwanted message traffic to reduce the expense associated with unwanted messages. Alperovich et al. sorts and generally displays messages by priorities indicated. Alperovich et al. only discloses messages such as "to do" messages (i.e. - "buy milk on the way home") and a pick up a passenger in a taxi cab setting message. Alperovich et al. does not disclose or suggest law enforcement type messages, safety messages, or messages which do not directly affect the recipient. Ong et al. discloses a multichannel selective call receiver for receiving information on different channels in a FLEX communication environment of a FLEX roaming system. Two

channel signals are shown in Figure 2 (as RF signals coming into the receiver) as examples. The memory of the receiver stores information on channel priority. Ong et al. does not define the channel signals which may be received by the receiver. Menard et al. is directed to receiving and responding to requests from a subscriber in a health emergency or non-emergency situation for the benefit of the subscriber or a monitored person. Menard et al. does not disclose priority Amber Alert messages received by the subscriber from a law enforcement authority. Seeger discloses a system for communicating to individuals located in an area without radio and/or television signals, information such as NOAA warnings and Amber Alert situations. However, Seeger does not disclose informing of any specific Amber Alert information, does not assign any priority to such message, and does not have the information appear on any receiving device immediately and before other messages are displayed on a display of such a receiving device.

The combination of 1) Hymel, 2) Alperovich et al., 3) Ong et al., 4) Menard et al., and 5) Seeger is improper because there is no motivation or incentive in the prior art to combine these references in a manner that would be required to establish a prima facie case. See *In re Napier*, 55 F.3d 610, 613, 34 U.S.P.Q.2d 1782, 1785 (Fed. Cir. 1995).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Here, there is absolutely no incentive in the cited references to combine the references in a manner that would be required to establish a prima facie case. When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the Examiner to explain why the combination of the teachings is proper. *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. See MPEP 2143.01 Second, there must be a reasonable expectation of success. See MPEP 2143.02. Finally, the prior art reference(s) must teach or

suggest all of the claim limitations. See MPEP 2143.03. The teaching or suggestion to make the claimed combinations and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. See MPEP § 2142. In the present case, the Examiner failed to meet this burden.

It is apparent the Examiner would have to take isolated features from each of the cited references, and would have to use the claims of the present application as a template. Such hindsight reconstruction is improper. It is well-recognized that the claimed invention cannot be used as an instruction manual or template to piece together the teachings of the prior art in an attempt to render the claimed device obvious. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992); *Fine*, 837 F.2d at 1075 (“one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.”)

Claim 1 specifically requires (1) receiving a priority Amber Alert message from a law enforcement authority, including an abductee name, a vehicle identification, a time, and a location; (2) assigning a priority identifier to the priority Amber Alert message; (3) transmitting the priority Amber Alert message to the plurality of wireless devices, wherein the priority identifier will cause the priority Amber Alert message to receive priority status once received by the plurality of the wireless devices; and, (4) compelling the immediate displaying of the priority Amber Alert message on the displays of the plurality of wireless devices before any other message is displayed on the displays of the plurality of wireless devices, comprising the steps of providing for assigning the priority message to a priority channel within the plurality of wireless devices and providing for displaying the priority message received on the priority channel of the plurality of wireless devices, on the display of the plurality of wireless devices immediately upon receipt by the plurality of wireless devices. Claims 22 and 43 have similar limitations for a system and a wireless device. There is no suggestion or motivation recited in the references to combine the five (5) cited references in a manner to achieve this invention. Even in combination, these references do not disclose or teach each and every limitation of Claims 1, 22 and 43. Thus, Applicant believes that Claims 1, 22 and 43 are in condition for allowance.

Several of the dependent claims include features which are also not shown in any of the above or other cited references, and therefore Applicant traverses the rejections related to many

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of the dependent claims. However, because all of the pending dependent Claims 3, 6-8, 10-16, 18, 20, 24, 27, 28, 29, 31-37, 39, 41, and 46 depend from respective Claims 1, 22, and 43, Applicant believes that these Claims are novel and non-obvious as well as explained above, and are in condition for allowance.

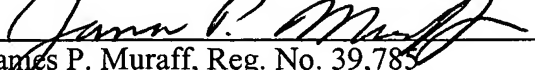
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CONCLUSION

In view of the above amendments and remarks, Applicant respectfully submits that Claims 1, 3, 6-8, 10-16, 18, 20, 22, 24, 27, 28, 29, 31-37, 39, 41, 43, and 46 are in condition for allowance and requests timely notification of same.


Respectfully submitted,

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